IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Bail Appl..No. 4226 of 2007()

CRIME NO.223 OF 2007 OF VENGARA POLICE STATION

.....

: PETITIONER/ ACCUSED NO.1

C.M.UMMER,S/O.MOHAMMED,
CHIRAKKAL HOUSE,
BIDATHI VAZHENKADA PO.,
ANAMANGADY, PERINTHALMANNA.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT

STATION HOUSE OFFICER,VENGARA POLICE
STATION,REP.BY PUBLIC PROSEUCTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4226 of 2007

Dated this the 12th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. The petitioner faces allegations, inter alia, under Section 420 I.P.C. The crux of the allegations is that the petitioner along with the 2nd accused approached the defacto complainant with a proposal for the marriage of the 2nd accused. The defacto complainant was prepared to pay amounts in consideration of the marriage. Deliberately to induce the defacto complainant to agree to the marriage, false assertions were made that the 2nd accused is a divorcee. He really had a wife and children. This fraudulent misrepresentation was made allegedly to induce the complainant to part with amounts and agree to give his daughter in marriage to the 2nd accused. Crime has been registered. Investigation is in progress. The 2nd accused has already been arrested. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations raised are totally false and incorrect. There was no intention to suppress any information from the defacto complainant. In these circumstances, the petitioner may be granted anticipatory bail.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that in the facts and

circumstances of the case, there is absolutely no justification in the prayer for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate having jurisdiction and seek regular bail, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor . I am satisfied that this is a fit case,where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course. No circumstances to justify the invocation of the jurisdiction under Section 438 Cr.P.C is shown to exist.

5. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-